



The Commonwealth of Massachusetts

AO-10

Office of Campaign & Political Finance

Dennis J. Duffin
Director

One Ashburton Place, Room 1005 Boston MA 02108

727-8352

August 27, 1982

Robert A. Weitz, Esquire
15 Cottage Street
West Brookfield, MA 01585

Dear Mr. Weitz:

Thank you very much for your letter of July 22, 1982, addressed to our Legal Counsel, in which you seek my opinion as to the applicability of M.G.L. c. 55, section 13, to an individual who is an elected official in one municipality and a non-elected employee of another municipality.

M.G.L. c. 55, section 13, provides that "No person employed for compensation, other than an elected officer, by the commonwealth or by any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees..." While this section prohibits those who are employed for compensation by the state or any political subdivision from engaging in any political campaign fundraising activity, it provides an exemption for elected officials. For that person employed for compensation from the state, county or any other political subdivisions, solely by virtue of an elected position, the exemption is complete and clear.

Section 13 further states "The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county, city or town, shall not be deemed to be a direct or indirect solicitation or receipt of such contribution." In so stating, it is clear that the legislature intended that public employees have the opportunity to be candidates for elected office. However, the public employee candidate is prohibited from participating in any fundraising activity himself, although such activity may be engaged in by the political committee organized to promote the candidacy of the person so employed.

Section 13 further provides that "no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if

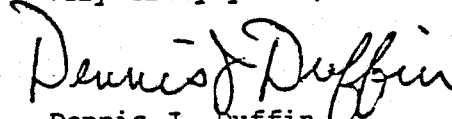
such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility." Thus, it is clear that persons employed for compensation from the state, and political subdivisions must not use any relationships derived through their public employment as a source of campaign financing.

In reading section 13 as a harmonious whole it is clear that it is intended to ensure that governmental activity is not affected by political campaign financing activity. Towards that end, while public employees may be candidates for elected office, and may have a political committee soliciting and receiving contributions on their behalf, no one on behalf of the public employee candidate may solicit from those interested in particular matters or which is the official responsibility of the employed person.

This prohibition cannot be affected because the public employee also holds an elected position. Rather, an elected official who is employed for compensation by the state and political subdivision through a position distinct from his elected position must be subject to an interpretation of section 13 which also considers his public employment position. While, as solely an elected official one would be exempt from the prohibitions of section 13, an individual who is employed for compensation in a way other than through an elected position must be subject to the limitations imposed by virtue of his public employment. This interpretation is consistent with the general legislative intent "to keep political fundraising and disbursing out of the hands of non-elected public employees..." Anderson v. City of Boston, Mass. Adv. Sh. 2297 (1978). As long as one holds a public employment position which is non-elective, the exemption of section 13 to elected officials is defeated.

In conclusion, it is my opinion that a person who is employed for compensation from the state or any political subdivision through a position other than an elected office is subject to the prohibitions contained in section 13. Therefore, an individual who is an elected official in one municipality and a non-elected employee of another municipality cannot solicit or receive anything of value for any political purpose whatever. The non-elected political committee organized to promote the candidacy of the person so employed may solicit and receive, provided that such soliciting or receiving is not from anyone the employed person knows or has reason to know has an interest in any particular matter in which the person so employed participates or has participated or which is the subject of his official responsibility.

Very truly yours,


Dennis J. Duffin
Director

DJD/rep